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<p>1 UNITED STATES DISTRICT COURT  2 FOR THE WESTERN DIVISION OF TEXAS  3 AUSTIN DIVISION  4  5 RICHARD MEYER, ) Case No. 1:18-CV-00800-LY  6 Plaintiff, )  7 v. )  8 MARK WAID, )  9 Defendant. )  10 _____)</p> <p>11  12  13 VIDEOTAPED DEPOSITION of MARK WAID taken  14 on behalf of the Plaintiff at 10250  15 Constellation Boulevard, 19th Floor, Los  16 Angeles, California, on Tuesday, February 26,  17 2019 at 1:26 p.m. before Vivian C. Lane,  18 Certified Shorthand Reporter No. 11339.</p> <p>19  20  21  22  23  24  25</p>	<p>1 I N D E X  2 WITNESS: MARK WAID  3  4 EXAMINATION PAGE  5 BY MR. BYRNE 6  6  7 E X H I B I T S  8 PLAINTIFF'S PAGE  9 1 Copy of Personal Appearance Agreement 51  Bates stamped DEF00025 through DEF00027;  3 pages  11 2 Transcript of part of Mr. Waid's 52  conversations with audience during  Comicpalooza in Houston in May of 2018;  4 pages  13 3 Flash drive containing audio recording 54  14 of Mark Waid's conversations with  15 audience at Comicpalooza in Houston in  May of 2018  16 4 Printout of pages from Facebook; 2 pages 69  17 5 Printout from Antarctic Press Web page; 70  5 pages  18 6 Facebook post Mr. Waid posted on 72  19 afternoon of May 11th, 2018 while  20 waiting for Mr. Dunn to return the  message he left; 2 pages  21 7 Series of text messages exchanged 72  22 between you and Mr. Dunn beginning on  23 Friday May ,11th at 5:51 p.m. and  continuing several days thereafter;  9 pages  24  25</p>
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<p>1 APPEARANCES:  2 For Plaintiff:  3 FRITZ, BYRNE, HEAD &amp; GILSTRAP, PLLC  4 By: DANIEL H. BYRNE, ESQ.  221 West Sixth Street  5 Suite 960  Austin, Texas 78701  6 (512)476-2020  dbyrne@fbhg.law  7 For Defendant:  8 REEVES &amp; BRIGHTWELL  9 By: RYAN M. PIERCE, ESQ.  221 West Sixth Street  10 Suite 1000  Austin, Texas 78701-3410  11 (512)334-4503  rpierce@reevesbrightwell.com  12 -and-  13 LAW OFFICES OF MARK S. ZAID, P.C.  14 By: MARK S. ZAID, ESQ.  1250 Connecticut Avenue Northwest  15 Suite 200  Washington, D.C. 20036  16 (202)454-2809  mark@markzaid.com  17 Also Present:  18 John Hank, Videographer  Richard Meyer  19  20  21  22  23  24  25</p>	<p>1 I N D E X (Continued)  2  3  4  5  6  7 QUESTIONS INSTRUCTED NOT TO ANSWER  8 (None)  9  10  11  12  13  14  15 INFORMATION REQUESTED  16 (None)  17  18  19  20  21  22  23  24  25</p>

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	1 LOS ANGELES, CALIFORNIA, TUESDAY, FEBRUARY 26, 2019 2 1:26 P.M. 3 4 THE VIDEOGRAPHER: We're on the record to begin the 01:25 5 video-recorded deposition of Mark Waid in the matter of 6 Richard Meyer vs. Mark Waid. Today is February 26th, 7 2019. The time is approximately 1:26 p m. The case is 8 filed in United States District Court for the Western 9 District of Texas, Austin Division, Case 01:26 10 No. 1:18-CV-00800-LY. This deposition was requested by 11 counsel for the plaintiff, Richard Meyer. We are in the 12 offices of Glaser Weil located at 10250 Constellation 13 Boulevard, Los Angeles, California, 90067. 14 The court reporter is Vivian Lane with the 01:26 15 offices of Barkley Court Reporters. My name is John 16 Hank. I'm a representative of Lexitas located at 13101 17 Northwest Freeway, Suite 210, Houston, Texas 77040. 18 If all counsel present could identify 19 themselves, who they represent, and the location of their 01:26 20 offices. 21 MR. BYRNE: Dan Byrne with the firm in Austin, 22 Texas, and I'm here representing Richard Meyer. 23 MR. PIERCE: Ryan Pierce here for the defendant, 24 Mr. Waid, from Austin, Texas. And sitting next to me is 01:27 25 Mark Zaid from Washington, D.C.	01:27 01:27 01:28 01:28 01:28 01:28 01:28 01:28	1 Q What kind of a case? 2 A I'm sorry? 3 Q What kind of a case? 4 A It was a copyright case. 5 Q All right. You understand the oath you just 6 took is the same one you'd take in front of a judge and a 7 jury? 8 A I do. 9 Q And as we just did in the announcements, you 10 know I'm here representing Richard Meyer in the lawsuit 11 that's pending between the two of you? 12 A Yes, sir. 13 Q Okay. I'm going to try to be as efficient as 14 possible today. Tell me a little bit about 15 your -- your -- your background. I -- I think I've read 16 somewhere that you were born in -- in Alabama? 17 A That's correct. I was born in Alabama. Moved 18 around the South as a child. Lived in Virginia, lived in 19 Buffalo and in California and in Florida. I've been out 20 here off and on for about 16 years. 21 Q Okay. Did you go to college somewhere? 22 A Virginia Commonwealth University. 23 Q Okay. And when did you graduate, if you 24 graduated? 25 A I did not graduate.
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	1 THE VIDEOGRAPHER: Would the court reporter please 2 swear in the witness. 3 4 (The oath was administered to the 5 deponent, MARK WAID, as follows:) 6 7 THE REPORTER: Will you raise your right hand, 8 please. 9 Do you solemnly state under penalty of perjury 10 that the testimony you give in this deposition shall be 11 the truth, the whole truth, and nothing but the truth? 12 THE WITNESS: I do. 13 MR. BYRNE: And let the record also reflect that 14 Richard Meyer, one of the parties is -- is also present. 15 16 EXAMINATION 17 BY MR. BYRNE: 18 Q Would you state your name for the record, 19 please. 01:27 20 A Sure. William Mark Waid. 21 Q And Mr. Waid, have you ever been deposed 22 before? 23 A Yes. I was an expert witness once. 24 Q Okay. Any other times? 01:27 25 A No.	01:28 01:29 01:29 01:29 01:29 01:29 01:29 01:29 01:29 01:30	1 Q And I think I also read somewhere that there 2 was a period of time when you actually lived in Texas? 3 A That's correct. 4 Q When was that? 5 A That would have been from '82 to approximately 6 '84, '85. 7 Q Okay. And what -- what brought you to Texas in 8 the -- in the early '80s? 9 A My mother was ill. 10 Q And I guess she had relocated there? 11 A Right. Exactly, yes. 12 Q And were you working during that time? 13 A Uh, yes. 14 Q And what kind of work were you doing -- 15 A Assistant to an accountant. 16 Q And when did you get into the business 17 of -- of -- I'm not sure how to -- the comic book 18 industry -- 19 A Oh, sure. 20 Q -- and in what way? 21 A I began on staff in 1987 as an assistant 22 editor -- associate editor of DC Comics. 23 Q And what city was that in? 24 A That was in New York. 25 Q All right. And how long did you live in New

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02:12	<p>1 substance and content of the -- the actual Jawbreaker</p> <p>2 comic that is offensive?</p> <p>3 <b>A To Kickstarter, yes.</b></p> <p>4 Q I'm sorry, to -- to Kickstarter?</p>	02:14	<p>1 <b>reaching out making contact -- or trying to make contact.</b></p> <p>2 Q Okay. Is it possible you could have Googled it</p> <p>3 and found it on the Internet?</p> <p>4 MR. PIERCE: Object to form.</p>
02:12	<p>5 <b>A Yes, sir.</b></p> <p>6 Q I'm not asking about Kickstarter right now.</p> <p>7 I'm asking about you.</p> <p>8 <b>A That wasn't clear. You were just asking</b></p> <p>9 <b>about --</b></p>	02:14	<p>5 THE WITNESS: Not to my recollection.</p> <p>6 BY MR. BYRNE:</p> <p>7 Q I didn't ask whether -- obviously you don't</p> <p>8 recall going to the Internet.</p>
02:12	<p>10 Q Okay.</p> <p>11 <b>A Okay. Well, based on -- if you're asking to</b></p> <p>12 <b>this day, based on my knowledge that Kickstarter rejected</b></p> <p>13 <b>this project on the basis of victory and misogyny, then</b></p> <p>14 <b>the answer would be yes.</b></p>	02:15	<p>10 Q Would -- would that not be a normal action that</p> <p>11 you would typically take in this situation where you're</p> <p>12 trying to get a number of a business?</p> <p>13 MR. PIERCE: Object to form.</p>
02:12	<p>15 Q So you're saying that you assume, even though</p> <p>16 you don't know, that there's something about the content</p> <p>17 of the comic that was produced that must be offensive,</p> <p>18 otherwise Kickstarter wouldn't have done what it did?</p> <p>19 MR. PIERCE: Object to form.</p>	02:15	<p>15 THE WITNESS: Again, that wasn't -- that wasn't the direction I went.</p> <p>16 BY MR. BYRNE:</p> <p>17 Q I'm not asking what you did in this case. I'm</p> <p>18 asking what you would normally if you want to try to</p> <p>19 reach a business somewhere around the country, isn't it a</p>
02:13	<p>20 THE WITNESS: I know for a fact Kickstarter rejected</p> <p>21 the project on those grounds. We have documentation of</p> <p>22 that fact.</p> <p>23 BY MR. BYRNE:</p> <p>24 Q Because of the content of the work, not because</p>	02:15	<p>20 normal action for you to type the name of the business in</p> <p>21 on Google to see if you can find what you need on the</p> <p>22 Internet?</p> <p>23 MR. PIERCE: Object to form.</p>
02:13	<p>25 of the -- those issues being affiliated with Mr. Meyer?</p>	02:15	<p>24 THE WITNESS: If it's a company outside the purview</p> <p>25 of my industry, sure. If I'm trying to lodge a complaint</p>
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02:13	<p>1 MR. PIERCE: Object to form.</p> <p>2 THE WITNESS: That's correct.</p> <p>3 BY MR. BYRNE:</p> <p>4 Q So did you -- at some point you decided to call</p>	02:15	<p>1 with Amazon.com, yes. But we're not talking about that.</p> <p>2 BY MR. BYRNE:</p> <p>3 Q And why do you not use that same tool when</p> <p>4 you're within the industry?</p>
02:13	<p>5 Antarctic Press?</p> <p>6 <b>A Correct.</b></p> <p>7 Q Did you go online and Google Antarctic Press to</p> <p>8 get the number? Or did you already have it --</p> <p>9 <b>A Not to the best of my recollection.</b></p>	02:15	<p>5 MR. PIERCE: Object to form.</p> <p>6 THE WITNESS: It was simply just the direction I</p> <p>7 went.</p> <p>8 BY MR. BYRNE:</p> <p>9 Q I understand that's what happened here.</p>
02:14	<p>10 Q I'm sorry?</p> <p>11 <b>A Not to the best of my recollection.</b></p> <p>12 Q Did you already have contact information in</p> <p>13 your contacts?</p> <p>14 <b>A No, sir.</b></p>	02:16	<p>10 <b>A Right.</b></p> <p>11 Q But I'm asking why you would differentiate</p> <p>12 between how you would reach a business that you didn't</p> <p>13 have a number for that's in your industry versus one</p> <p>14 that's outside your industry.</p>
02:14	<p>15 Q How did you go about getting contact</p> <p>16 information for Antarctic Press?</p> <p>17 <b>A To the best of my recollection, I contacted</b></p> <p>18 <b>industry colleagues, seeing if anybody had contact</b></p> <p>19 <b>information for them.</b></p>	02:16	<p>15 MR. PIERCE: Object to form, asked and answered.</p> <p>16 THE WITNESS: Honestly, I don't recall -- recall.</p> <p>17 BY MR. BYRNE:</p> <p>18 Q Who did you talk to first at Antarctic Press?</p>
02:14	<p>20 Q Do you remember who you contacted?</p> <p>21 <b>A I remember I contacted [REDACTED]. I don't</b></p> <p>22 <b>recall anyone else I may have gotten the information</b></p> <p>23 <b>from. I don't necessarily -- I don't recall whether or</b></p> <p>24 <b>not [REDACTED] even picked up the phone or whether or not</b></p>	02:16	<p>19 <b>A I don't know the person's name.</b></p> <p>20 Q Whoever answered the phone?</p> <p>21 <b>A Whoever answered the phone.</b></p> <p>22 Q And what do you recall about that conversation?</p> <p>23 <b>A I recall that I left a message. It was regards</b></p>
02:14	<p>25 I got the number from [REDACTED]. I do -- I just remember me</p>	02:17	<p>24 <b>their announcement. I said specifically during that</b></p> <p>25 <b>conversation, "I wish to speak to the owner" -- not in</b></p>

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02:17	1 anger. I said specifically, "I'm not calling to tell you 2 what to publish or not to publish, but I would simply 3 like to speak to Mr. Dunn and see if he understands, you 4 know, why the backlash is happening."	02:20	1 what -- what do you know. And then he explained he had 2 already had a morning and afternoon of angry freelancers 3 and of his own staff being angry and threatening to quit 4 over this situation.
02:17	5 Q So you left a -- a message specifically for Ben 6 Dunn? 7 A I did. 8 Q Okay. And was that on Friday? 9 A Yes, sir.	02:21	5 I said, "How did you not know?" 6 He said, "I'm not on social media. This is not 7 my full-time job." 8 I said, "I am not calling to tell you what to 9 publish or not to publish, that is not my intent, and 10 people can publish whatever they want to publish. I just 11 wanted to make sure you understood why there was such a 12 firestorm coming your way and why there was such an 13 outcry."
02:17	10 Q And how long did it take for that call -- that 11 message to be returned approximately? 12 A Approximately two hours. 13 Q And who called you back? 14 A I believed it was Ben Dunn at the time. I	02:21	14 He indicated that he now understood. He didn't 15 understand at the beginning of that day, but by that time 16 he had understood. He indicated to me that that point he 17 was ready to sever ties with Mr. Meyer. He used the 18 phrase "his behavior is indefensible." 19 Q Uh-huh.
02:18	15 later learned it was his brother, Joe. 16 Q Had you ever met Joe? 17 A Not to my recollection. 18 Q What do you know about their different roles, 19 or what do you -- did you understand their different	02:21	20 A And from there, we started talking about 21 believing that, you know, we were on the same page at 22 that point. The conversation became more genial. Now, 23 good on you being able to stay in business this long and 24 the good and bad times.
02:18	20 roles were within Antarctic Press at the time of this 21 call? 22 A I had no idea. My understanding at the time 23 was that Ben Dunn was still the publisher/owner, and 24 that's why I went -- reached out to him.	02:22	25 We talked about the role of a publisher,
02:18	25 Q And how long did you talk to Mr. Dunn on that	02:22	
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02:19	1 Friday? 2 A To the best of my recollection, approximately 3 15 minutes, perhaps a little longer. 4 Q Was that on your cell phone?	02:22	1 how -- you know, the role of divorcing the work from the 2 creative person. Sometimes you -- you know, you won't 3 publish something because you find the -- the author 4 repellent. Sometimes you will. Sometimes my -- it 5 became a conversation about where do you draw the line. 6 How offensive or how immoral does somebody have to be for 7 you, as a publisher, to say, all right, I can't divorce 8 the work from this person, I can't publish this. It was 9 a very congenial and very friendly conversation.
02:19	5 A Yes, sir. 6 Q Do you have records of that call? 7 A Not to the best of my recollection, no, sir. 8 Q Have you tried to get them? 9 A I have not tried to get them, no.	02:22	
02:19		02:23	10 Q So he talked about the recognition in the 11 industry, that the work and the person should not be 12 viewed as one thing but should be viewed independently, 13 correct? 14 MR. PIERCE: Object to form.
02:20		02:23	15 THE WITNESS: Not correct, no, sir. 16 We talked about to the extent at which that's 17 the case. He never indicated absolutely that you should 18 always separate the person from the product. That 19 was -- that was the whole point of the conversation.
02:20	17 Q Okay. So tell me what you recall about the 18 substance of the conversation with Mr. Dunn that lasted 19 approximately 15 minutes or maybe longer?	02:23	20 BY MR. BYRNE: 21 Q So when you got the call on your -- do you have 22 an iPhone? 23 A I do. 24 Q When you got your -- the call on your iPhone,
02:20	20 A Certainly. 21 Mr. Dunn called -- I was expecting -- I was 22 expecting a call, or at least hoping to expect a call, so 23 I picked up the phone. The first words out of Mr. Dunn's 24 mouth were a sigh and then "I know."	02:23	25 did you notice that the origination of the number was
02:20	25 I laughed and we started talking about	02:23	

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02:23	1 San Antonio, Texas? 2 <b>A I don't recall.</b> 3 Q When did you figure out that Antarctic Press 4 and Mr. Dunn were based in San Antonio?	02:38	1 questions. 2 BY MR. BYRNE: 3 Q The Friday that we're talking about here where 4 this phone call took place --
02:24	5 <b>A To the best of my recollection, it was in the</b> 6 <b>week or week-and-a-half following when the entire thing</b> 7 <b>became a giant industry brew-ha-ha. And there was much</b> 8 <b>discussion, there was much hatred flying my way on social</b> 9 <b>media. Much anger and somewhere in that maelstrom, I</b>	02:38	5 <b>A Yes.</b> 6 Q -- is May 11th, 2018, correct? 7 <b>A Correct.</b> 8 Q And did you come away from your call with 9 Mr. Dunn on May 11th with the understanding that he
02:24	10 believe it was brought or it was just brought to my 11 attention that Mr. Meyer was in Texas -- which was news 12 to me. That Antarctic Press was in Texas, which was news 13 to me.	02:39	10 was -- his company was not going to proceed with 11 publishing Mr. Meyer's comic book? 12 <b>A My understanding was that he had personally</b> 13 <b>made that decision.</b>
	14 Q And why would that have been a relevant data	14 Q And did you feel like as a result of that	
02:24	15 point in the -- in the maelstrom that followed the phone 16 call?	02:39	15 decision that you had achieved your goal --
	17 <b>A Well, with respect that you would -- I -- you'd</b> 18 <b>have to ask the people who put that information out</b> 19 <b>there. Um, to the best of my recollection, it became,</b>	16 MR. PIERCE: Objection; form.	
02:25	20 <b>you know -- you know, well, you know, this is -- this is</b> 21 <b>bad behavior, and I honestly don't know.</b>	02:39	17 BY MR. BYRNE: 18 Q -- for the call? 19 <b>A My goal for the call was simply to alert him of</b> 20 <b>the -- of the hornet's nest he was stumbling into. So</b>
	22 Q Mr. Waid, is it possible that you knew, based 23 on your prior extensive familiarity with the industry and 24 it being a fairly small industry, that Antarctic Press		21 <b>any sense that that mission was accomplished, was</b> 22 <b>accomplished within the first 30 seconds of the call.</b>
02:25	25 was based in San Antonio before you made the call there?	02:39	23 Q Well, did you have any sense personally that 24 you had won?
		25 MR. PIERCE: Object to form.	
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02:25	1 MR. PIERCE: Object to form. 2 THE WITNESS: Not that I recall. 3 BY MR. BYRNE:	02:40	1 THE WITNESS: There was no winning or losing, no, 2 sir. That was not the -- that was not the object.
02:25	4 Q But you also can't recall how it came up in the 5 context of the discussions in the week or two following 6 the call that Texas was where you had directed your 7 communications during that call?	02:40	3 BY MR. BYRNE: 4 Q Well, you would acknowledge that your hoped-for 5 outcome when you initiated the call was for him to 6 reconsider the decision to publish Mr. Meyer's book, 7 right?
	8 MR. PIERCE: Object to form. 9 THE WITNESS: Not to the best of my recollection,	8 MR. PIERCE: Object to form. 9 THE WITNESS: Not necessarily, sir.	
02:26	10 no, sir. 11 MR. PIERCE: Dan, when you get to a good point, 12 okay? We've been going about an hour. Can we take a 13 bathroom break? Just whenever you get to an okay 14 stopping point.	02:40	10 BY MR. BYRNE: 11 Q Would you say you were pleased with the 12 decision Mr. Dunn made at -- by the conclusion of your 13 call?
02:26	15 MR. BYRNE: Sure. This is as good as any. 16 Off the record.	02:40	14 MR. PIERCE: Object to form. 15 THE WITNESS: I would say that's accurate.
	17 THE VIDEOGRAPHER: We are off the record at 2:26. 18 (Recess taken.)	16 BY MR. BYRNE: 17 Q What's the next substantive communication you	
	19 THE VIDEOGRAPHER: We are back on the record at	18 recall having in the days following your call on he	
02:38	20 2:38. 21 THE WITNESS: If I may, before we start, there's a 22 couple of things I'd like to clarify.	19 Antarctic Press announcement that related to Mr. Meyer?	
	23 MR. BYRNE: You can just do that when you get your	20 <b>A Not long after. I -- I can't remember exactly</b> 21 <b>how long. But that afternoon or early that evening I</b>	
	24 deposition transcript if you feel like you need to	22 <b>received a text message from Mr. Dunn that initiated a</b> 23 <b>conversation that was quite pleasant.</b>	
02:38	25 correct something, or your lawyer can ask follow-up	24 Q A text conversation?	
		25 <b>A Yes, sir.</b>	

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02:41	1 Q Okay. All right. And did that text 2 conversation continue into the following week? 3 THE WITNESS: Gesundheit. 4 I wouldn't say "continue." There were -- there		02:45 1 (Plain iff's Exhibit 1 was marked for 2 identification by he court reporter and was 3 attached hereto.) 4 THE WITNESS: Thank you.	
02:41	5 were other conversations. Yes, I believe there were 6 three interactions via text in all. 7 BY MR. BYRNE:		02:45 5 BY MR. BYRNE: 6 Q I'm going to hand you what's been marked as 7 Exhibit 1 to your deposition.	
02:42	8 Q And you were seeking assurance from Mr. Dunn 9 that he didn't feel bullied by you during your call, 10 correct?		8 A Uh-huh. 9 Q Do you recognize this as the Personal 10 Appearance Agreement that you entered into in connection 11 with your appearance at the Houston event in May of 2018? 12 A I do.	
02:42	11 MR. PIERCE: Object to form. 12 THE WITNESS: That is correct. 13 BY MR. BYRNE: 14 Q Did he ever give you that -- that assurance in		13 Q And is there a signed version of this 14 somewhere? 15 A I assume there is.	
02:42	15 the days following the call? 16 MR. PIERCE: Object to form. 17 THE WITNESS: He did not. 18 BY MR. BYRNE: 19 Q Do you recall the issue of Mr. Meyer and the		16 Q Okay. Did you -- did you make any effort to 17 locate it? 18 A No, sir. 19 Q Is this a fairly standard form of agreement you	
02:42	20 Antarctic Press "Jawbreaker" decision coming up during 21 your appearance in Houston later in May? 22 A I do. 23 Q And what is it that prompted you to remember 24 that conversation?		20 get for appearing at these events? 21 A It's hard to say. This was a new arrangement 22 with a -- a representative who had organized these 23 things, and then he's paid and then I am paid through 24 him.	
02:43	25 A I was speaking at a panel, as one does at these		25 Q So you had a different promoter for this one	
		Page 50		Page 52
02:43	1 things, in front of a group of fans who asked questions 2 about my career, about my involvement, about my life, 3 about whatever. I'm an open book when it comes to that 4 kind of stuff. And at some point, someone asked about		02:46 1 than you usually use? 2 A I generally don't use promoters.	
02:43	5 Meyer or about the foofaraw that had blown up around it. 6 Q And had you forgotten about answering questions 7 about Mr. Meyer in Houston in May of 2018 when you filled 8 out your first affidavit in support of a motion to 9 dismiss in this case?		3 4 5 6 7 8 9	
02:43	10 A Yes. That's why we followed up with the 11 correction once I remembered, yes.		10 11 (Plaintiff's Exhibit 2 was marked for 12 identification by the court reporter and was 13 attached hereto.) 14 THE REPORTER: Thank you.	
02:44	12 Q Okay. I'll just tell you, for the record, that 13 that affidavit was executed on November 1st and -- and 14 there was a follow-up one -- a day or so later. Several 15 days -- excuse me -- on November 12th.		15 THE WITNESS: You're welcome. 16 BY MR. BYRNE: 17 Q I'm going to hand you what's marked as 18 Exhibit 2 to your deposition and ask you if that appears 19 to be a accurate transcript of part of your conversation 20 with the audience during the Houston event in May of 21 2018.	
02:44	20 concerning Mr. Meyer to persons in the state of Texas? 21 A I honestly don't recall.		22 MR. PIERCE: You're -- are you asking him to certify 23 that this is an accurate transcript of -- 24 MR. BYRNE: Yeah, I'm asking if it looks right to	
02:45	22 Q Did you go back and listen to the audio of your 23 interview before you signed your supplemental affidavit? 24 A The supplemental one, yes, sir.		25 him.	
02:45	25 MR. PIERCE: Oh, you'll get that copy.			

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02:48	1	MR. PIERCE: Yeah.	02:51	1 just as there are in pop -- I mean, right
	2	MR. BYRNE: I'm not asking him to give a verbatim		2 there in -- in -- in the world right now, not
	3	blessing to it.		3 just in comic books but in the world, you
	4	MR. PIERCE: So just generally?		4 got... heavily, you know, male heavy... um,
02:48	5	MR. BYRNE: Just generally, yes.	02:51	5 movements of guys who were trying to move
	6	(Whereupon, the witness reviews the		6 things back, or towards white supremacy, back
	7	document.)		7 towards a world in which women knew their
	8	THE WITNESS: Okay. The question again was?		8 place, uh... that kind of nonsense, um, and
	9	BY MR. BYRNE:		9 they are the proud boys or they're, you know,
02:49	10	Q Does that appear to generally be an accurate	02:51	10 the -- they're this group or they're that
	11	transcription of your comments and -- and your		11 group.")
	12	interaction with an audience member at the Houston		12 MR. BYRNE: Let me just pause right there.
	13	May 2018 event?		13 BY MR. BYRNE:
	14	<b>A Yes, sir.</b>		14 Q Is that your voice that we're hearing on the
02:49	15	Q I'm -- I'm going -- let me just play the --	02:51	15 recording?
	16	<b>A Sure.</b>		16 <b>A Yes, sir.</b>
	17	Q -- the one that's marked.		17 Q Okay. And so far, does the transcription track
	18	THE WITNESS: Okay. Which?		18 a fair degree of accuracy what -- what you were saying
	19	MR. BYRNE: I'm going to play the audio file.		19 back at the time?
02:49	20	THE WITNESS: The one that's marked? I don't --	02:52	20 MR. PIERCE: Object to form.
	21	you're looking for the one that's marked?		21 THE WITNESS: Yes, sir.
	22	MR. PIERCE: Has this been marked yet?		22 BY MR. BYRNE:
	23	THE REPORTER: I -- I'll sticker it later.		23 Q Is there anything about it that was inaccurate
	24	THE WITNESS: Oh, okay. I see what you're saying.		24 that you've heard?
02:50	25	MR. PIERCE: Okay.	02:52	25 <b>A Not that I've caught.</b>
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02:50	1	MR. BYRNE: So it will be marked as Exhibit 3?	02:52	1 Q Okay. And you, in making these comments, were
	2	THE REPORTER: Yes.		2 responding to an audience member's question about
	3	(Plaintiff's Exh bit 3 was marked for		3 Diversity & Comics and Mr. Meyer, correct?
	4	identification by the court reporter and was		4 <b>A Let me read his question again.</b>
02:50	5	attached hereto.)	02:52	5 (Whereupon, the witness reviews the
	6	MR. BYRNE: I'll ask you to listen to this		6 document.)
	7	recording.		7 THE WITNESS: The answer to the question would be a
	8	THE WITNESS: Uh-huh.		8 little more general about these people, but yes.
	9	(The audio recording was played as		9 BY MR. BYRNE:
02:50	10	follows:	02:52	10 Q But there is a specific question about
	11	"You guys created the -- did their		11 Diversity Comics which you -- you identify with
	12	comic. Great. Awesome. Then they started		12 Mr. Meyer, correct?
	13	doing things like making a list of		13 <b>A Buried in here there is a specific question.</b>
	14	the -- there was a -- there was a bunch of		14 Q Okay.
02:50	15	stores that decided they weren't going to	02:52	15 (The audio recording was played as
	16	carry the comic" --)		16 follows:
	17	MR. BYRNE: I think I may be playing the wrong		17 "And comics has you know a group or two
	18	excerpt.		18 like that too, comics fans have a group like
	19	MR. PIERCE: Yeah. That was in the middle.		19 that or two too, and it's a shame, um, trying
02:50	20	(The audio recording was played as	02:52	20 to say without inflaming anything.
	21	follows:		21 "Recently um one of them one of these
	22	"That's tough to answer me because I'm		22 groups kickstarted a comic and great, awesome,
	23	trying to... you don't want to give oxygen too		23 they're gonna do their own graphic novel
	24	much to toxic, toxic people. But what he's		24 because they're super conservative, hyper
02:51	25	basically talking about there is, there are --	02:53	25 conservative guys.")

	Page 57		Page 59
02:53	<p>1 BY MR. BYRNE:</p> <p>2 Q Were you referring to -- let me interrupt the recording again.</p> <p>3 Are you referring to Mr. Meyer as the group</p>	02:55	<p>1 last of all their employees.")</p> <p>2 BY MR. BYRNE:</p> <p>3 Q And again, you're referring in this comment to</p>
02:53	<p>5 that's going to do their own graphic novel?</p> <p>6 A He and his collaborator, yes, sir.</p> <p>7 Q Do you know whether he had any coauthors?</p> <p>8 A I -- I know because of the way the craft works,</p> <p>9 that he would have been working with an artist because</p>	02:55	<p>4 Mr. Meyer, correct? The list of employees that you</p> <p>5 testified about earlier?</p> <p>6 MR. PIERCE: Object to form.</p>
02:53	<p>10 he's not a --</p> <p>11 Q And a colorist?</p> <p>12 A And a colorist, yes.</p> <p>13 Q Okay. So you're referring to that group,</p> <p>14 Mr. Meyer, and his colorist and his artist, right?</p>	02:55	<p>10 what -- it -- not necessarily to him, but to the people</p> <p>11 who are working on this book.</p> <p>12 Q Did -- did anyone besides Mr. Meyer, to your</p>
02:53	<p>15 A It's -- we're on the line. I -- one of these</p> <p>16 groups -- I was talking -- again, that's -- I'm talking</p> <p>17 specifically about those three people, just more in a</p> <p>18 general sense of Comicsgate has started. Because again,</p> <p>19 by that time, in most people's minds, including my own,</p>	02:55	<p>13 knowledge, circulate a list of stores and phone numbers?</p> <p>14 A Not that I recall, no.</p> <p>15 Q Okay.</p>
02:54	<p>20 Meyers and Comicsgate were interchangeable.</p> <p>21 Q In this statement, you're actually talking</p> <p>22 about a graphic novel, correct?</p> <p>23 A That is correct, yes, sir.</p> <p>24 Q And that would be Mr. Meyers and his colorist</p>	02:55	<p>16 (The audio recording was played as</p> <p>17 follows:</p> <p>18 "And with the idea that, 'oh no, don't</p> <p>19 call them and harass them, we're not telling</p> <p>20 you to do that at all!' But here's their phone</p> <p>21 numbers and their first and last names of all</p> <p>22 their employees. Well, c'mon.</p> <p>23 "So, there was a --")</p> <p>24 BY MR. BYRNE:</p>
02:54	<p>25 and his artist, graphic (inaudible) that you're referring</p>	02:55	<p>25 Q And is your comment here -- let's pause</p>
	Page 58		Page 60
02:54	<p>1 to, correct?</p> <p>2 A That's correct.</p> <p>3 (The audio recording was played as</p> <p>4 follows:</p>	02:56	<p>1 again -- intended to suggest that there was, in fact, a</p> <p>2 implied direction to harass the stores and their</p> <p>3 employees?</p> <p>4 A Absolutely.</p>
02:54	<p>5 "And the myth was, the wrap was that</p> <p>6 comics was not interested in creating</p> <p>7 conservative creators and we're not, we're</p> <p>8 throwing conservative creators out. That's</p> <p>9 not the case at all, it's a lot of</p>	02:56	<p>5 Q Okay.</p> <p>6 Back to the tape.</p> <p>7 (The audio recording was played as</p> <p>8 follows:</p> <p>9 "-- publisher here in Texas who was</p>
02:54	<p>10 conservative creators at comics, we don't --</p> <p>11 we're throwing assholes out, that's [sic] what</p> <p>12 we're doing and [sic] for every, for every</p> <p>13 conservative asshole we don't work with in</p> <p>14 comics, there's ten liberal assholes [sic] we</p>	02:56	<p>10 going to publish their comic, for, after it</p> <p>11 had been kickstarted they were gonna, I ke</p> <p>12 publish it for comic stores and... there was a</p> <p>13 huge amount of hatred towards that publisher</p> <p>14 at this moment. There was a, most people in</p>
02:54	<p>15 don't work with in comics, so if that's not,</p> <p>16 there's no -- there's no political yardstick</p> <p>17 here.</p> <p>18 "Uh these guys created the, you</p> <p>19 know, they did their comic, great, awesome.</p>	02:56	<p>15 comics, most fans in comics were looking at</p> <p>16 this as 'How? What are you doing? These guys</p> <p>17 are, these are indefensible human beings.' Uh</p> <p>18 they are, they, they harass women, they harass</p> <p>19 minorities, they harass LGBTQ people, um,</p>
02:54	<p>20 Then they started doing things like</p> <p>21 um...making a list of the stor -- there</p> <p>22 was, there was a bunch of stores that decided</p> <p>23 they weren't going to carry the comic, so</p> <p>24 these guys made a list of those stores...and</p>	02:56	<p>20 they're full of hate. What are you doing?"</p> <p>21 BY MR. BYRNE:</p> <p>22 Q And Mr. Meyer -- pause again --</p> <p>23 Mr. Meyer -- Mr. Waid?</p> <p>24 A Uh-huh.</p>
02:55	<p>25 their phone numbers and the names, first and</p>	02:56	<p>25 Q In this excerpt, you're referring to Antarctic</p>

		Page 61		Page 63
02:57	1 Press, correct? 2 <b>A Correct.</b> 3   Q And you're using "they" but you're really 4 referring to Mr. Meyer; are you not?		02:58	1 BY MR. BYRNE: 2   Q And what did -- what did you mean by your 3 reference to the "Hordes of Hell"? 4 <b>A Another hyperbolic reference to the fact that</b> 5 <b>there was such a huge social media outcry against this</b> 6 <b>from the industry.</b>
02:57	5   MR. PIERCE: Object to form. 6   THE WITNESS: "They" harass. When they harass -- 7 you mean, in that context, but they harass, they do this, 8 yes. 9 BY MR. BYRNE:		02:58	7   (The audio recording was played as 8 follows: 9         "Long story short, I did call the 10 publisher and said 'look you do what you want 11 and I'm not, I'm -- I'm not asking you to not 12 publish it, I'm not even saying, I'm not 13 saying anything, I'm just kinda curious what 14 you're thinking.' And the answer was, 'Oh my 15 God, we had no idea, like we really didn't yet 16 this before we decided to publish it.' And so 17 they made an announcement they weren't gonna 18 to publish it. 19         "Uhhh that's their choice, I wasn't... 20 I, you know, I, I didn't, I wasn't 21 intimidating them. I wasn't pushing them into 22 doing one thing or another, I just wanted to, 23 to look out for him, make sure he understood 24 why people were angry at him. Um, and so 25 that's turned into what, me getting death
02:57	10   Q Okay. 11         (The audio recording was played as 12 follows: 13         "And my feeling is, look let the baby 14 have his bottle, let, I don't care who 15 publishes the comic. I don't care whether you 16 published this comic or not. I don't care. 17 But I knew the publisher and I don't think he 18 was aware of why all of a sudden it was this 19 gigantic groundswell of hate towards him. So 20 I said before we burn this place to the 21 ground --") 22 BY MR. BYRNE: 23   Q I'm going to pause there. 24   Um, what did you mean here when you said 25 "before we burn this place to the ground," referring to		02:59	10         publisher and said 'look you do what you want 11 and I'm not, I'm -- I'm not asking you to not 12 publish it, I'm not even saying, I'm not 13 saying anything, I'm just kinda curious what 14 you're thinking.' And the answer was, 'Oh my 15 God, we had no idea, like we really didn't yet 16 this before we decided to publish it.' And so 17 they made an announcement they weren't gonna 18 to publish it. 19         "Uhhh that's their choice, I wasn't... 20 I, you know, I, I didn't, I wasn't 21 intimidating them. I wasn't pushing them into 22 doing one thing or another, I just wanted to, 23 to look out for him, make sure he understood 24 why people were angry at him. Um, and so 25 that's turned into what, me getting death
		Page 62		Page 64
02:57	1 your conversation with Mr. Dunn? 2   MR. PIERCE: Object to form. 3   THE WITNESS: It was a hyperbolic statement that 4 before the industry as a whole decides to condemn hem,		02:59	1 threats every, you know, 5, 6 hours for a 2 while ummm... 3         '"Cause I'm clearly hate, you know, 4 clearly hate conservatives. Because I didn't, 5 I said, all right clearly I'm 6 bullying comic-I'm apparently I'm bullying 7 publishers, I'm calling publishers and 8 bullying them into not publi-if I could, if I 9 could bully publishers I'd be rich. If I 10 could bully publishers I'd be writing Superman 11 tomorrow, I could-there'd be so many things I 12 would be doing if I were really-if I had a 13 power to make publishers do what I wanted them 14 to do.
02:58	5 let's find out what they really knew, give them the 6 benefit of the doubt that hey weren't aware. 7 BY MR. BYRNE: 8   Q Were you conveying there that had he not 9 changed his mind, you would have been one of the people 10 burning this place to the ground, metaphorically 11 speaking?		02:59	15         "Um does that kinda answer your 16 question? It's...kinda? 17         "It's uh,... people can you know feel 18 how they wanna feel, uh, uh yeah. You are, 19 you aren't, you aren't with them, are ya? 20 (audience laughter) Okay, I didn't, I didn't 21 drive you guys out, did I?... One more 22 question.")
02:58	12 <b>A No --</b> 13   MR. PIERCE: Object to form. 14   THE WITNESS: No, sir. 15 BY MR. BYRNE: 16   Q Okay. 17         (The audio recording was played as 18 follows: 19         "Let me call him and just find out 20 what's going on, whether he understands really 21 what's being-if he wants to publish it it's 22 great I don't care but I just, I know the guy 23 and want to make sure he knows why the Hordes 24 of Hell are descending upon him right now. 25 That seems reasonable, right?")		03:00	23 BY MR. BYRNE: 24   Q Okay. Does that -- rest of that audio confirm 25 that the transcript marked as Exhibit 2 is accurate?

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03:00	<p>1 MR. PIERCE: Object to form. You mean word-for-word 2 verbatim?</p> <p>3 MR. BYRNE: I'm asking him that, yes.</p> <p>4 THE WITNESS: With the possible exception of a "and"</p>	03:04	<p>1 BY MR. BYRNE: 2 Q Did you ever uncover any direct evidence of 3 white supremacy on the part -- statements on the part of 4 Mr. Meyer?</p>
03:00	<p>5 or a "the" every once in a while, but substantively, yes.</p> <p>6 BY MR. BYRNE:</p> <p>7 Q Okay. And there's a reference in here, 8 Mr. Waid, to five or six hours of death threats.</p> <p>9 What -- what are you talking about here?</p>	03:04	<p>5 MR. PIERCE: Again, object to form. 6 How does this relate to jurisdiction? 'Cause 7 we're -- we're starting to yonder into, I think, more 8 substantive areas in a way that is really getting away 9 from the Court's order. This has nothing to do --</p>
03:00	<p>10 MR. PIERCE: Object to form. Oh, I'm sorry. Go 11 ahead.</p> <p>12 THE WITNESS: I'm talking about the fact that once 13 Antarctic Press made their announcement, all of 14 Comicsgate descended on my Facebook feed like locusts.</p>	03:04	<p>10 MR. BYRNE: Well -- 11 MR. PIERCE: -- with jurisdiction. 12 MR. BYRNE: I think if there are defamatory 13 statements made in Texas, and there's a reference to 14 white supremacy tied to Mr. Meyer, I think I'm entitled</p>
03:01	<p>15 Pepper -- posts not only about comics but about, you 16 know, my dog. I mean -- figuratively speaking. But I 17 mean, it had nothing to do with any of this, with fuck 18 you, Mark Waid, fuck you for doing this, I hope you rot 19 in hell, I hope you die, over and over and over again,</p>	03:04	<p>15 to explore that a little bit. 16 MR. PIERCE: Okay. I get you -- I'll give you a 17 little bit of room. 18 THE WITNESS: Ask it again, please.</p>
03:01	<p>20 within the next five or six hours. The whole rest of the 21 evening was me having to try to delete and shoo off all 22 these flies who were descending upon me with absolute 23 hate, blaming me for what has happened.</p> <p>24 BY MR. BYRNE:</p>	03:05	<p>19 BY MR. BYRNE: 20 Q Do you -- do you have any basis to substantiate 21 a contention that Mr. Meyer is a white supremacist? 22 MR. PIERCE: Object to form. 23 THE WITNESS: I would say in the materials I 24 provided to the Court is various social media posts about</p>
03:01	<p>25 Q Do you still have any documentation of dea h</p>	03:05	<p>25 how, you know, it's not a -- you know, the one about</p>
	Page 66		Page 68
03:01	<p>1 threats you received?</p> <p>2 <b>A No. Anything I have I would have provided already.</b></p> <p>4 Q So did you delete anything that would have</p>	03:05	<p>1 the -- you know, it's not -- what a sideshow or a circus, 2 whatever, when you hire black people for comics, that 3 sort of thing that's in there, yeah, absolutely. At 4 least indicated a propensity towards what we -- what we 5 refer to as white supremacy these days. It's a pretty 6 broad spectrum.</p>
03:02	<p>5 evidenced death threats by anyone in response to what 6 happened with Antarctic Press?</p> <p>7 <b>A I mean, I wish I hadn't, but I did at the time.</b></p> <p>8 <b>Why give them more of a platform to keep screaming.</b></p> <p>9 Q When did you delete those posts?</p>	03:05	<p>7 BY MR. BYRNE: 8 Q Do you have any documentation or other evidence 9 of Mr. Meyer directly espousing white supremacist</p>
03:02	<p>10 <b>A Pretty much as they were happening. The idea 11 was to stiff arm and keep -- try to keep it from becoming 12 a giant -- as I put it, a landing. My -- my social media 13 became a landing strip for lunatics.</b></p> <p>14 Q Did you take any of the death threats</p>	03:05	<p>10 doctrines, or are you inferring from the materials you 11 submitted to the Court that he must think that way? 12 MR. PIERCE: Object to form. 13 What -- what statement is this tied to? I 14 mean, what specific -- you mentioned a defamatory</p>
03:02	<p>15 seriously, or did you think of it as venting by folks on 16 the Internet?</p> <p>17 <b>A Well, at first you take it as venting, but 18 there's only so many times you can get that kind of stuff 19 without it reaching into your head a little bit.</b></p>	03:06	<p>15 statement. 16 MR. BYRNE: He's talking about moving things back 17 toward white supremacy. 18 THE WITNESS: Are you asking, is there a specific 19 moment when he -- when I am aware of he said "I am a</p>
03:03	<p>20 Q Okay. And again, I'm going to just make the 21 record clear. The -- the recording that I played in the 22 course of the deposition is, I think, labeled full five 23 minute among several files on that thumb drive.</p> <p>24 MR. BYRNE: And I also tendered you a duplicate,</p>	03:06	<p>20 white supremacist?" 21 BY MR. BYRNE: 22 Q Or espoused principles you associate with white 23 supremacist -- 24 <b>A I associate? Absolutely. Again, I stepped on you. I apologize.</b></p>
03:03	<p>25 Ryan.</p>	03:06	

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03:06	<p>1 Q Okay. And are -- are -- are all of those  2 materials to substantiate that -- those included among  3 those that you submitted to the Court in connection with  4 the motion that's pending?</p> <p>5 MR. PIERCE: Object to form.</p> <p>6 THE WITNESS: To the best of my recollection, that's  7 correct.</p> <p>8 BY MR. BYRNE:</p> <p>9 Q And you certainly produced all of them to us in  10 the course of discovery, or given them to your lawyers to  11 produce to us in the course of discovery, correct?</p> <p>12 MR. PIERCE: Objection to form.</p> <p>13 THE WITNESS: To the best of my recollection, yes,  14 sir.</p> <p>15 (Plaintiff's Exhibit 4 was marked for  16 identification by the court reporter and was  17 attached hereto.)</p> <p>18 BY MR. BYRNE:</p> <p>19 Q I think you testified earlier you don't recall  20 ever characterizing Mr. Meyer as a doxer?</p> <p>21 A I don't recall that.</p> <p>22 MR. PIERCE: This has -- so this has nothing to do  23 with the Houston -- so to clarify, now you're getting  24 into statements that aren't tied to that meeting in  25 Houston or the Q &amp; A session in Houston?</p>	<p>03:09</p> <p>1 that and see if that refreshes your memory about whether  2 you may have used that as a tool to locate the phone  3 number for Antarctic Press before you left your message  4 for Mr. Dunn?</p> <p>5 A No, sir. I have no memory seeing any of this  6 before.</p> <p>7 Q Okay. Do you see the name "Doug Dlin"?</p> <p>8 A Uh...</p> <p>9 Q Second-to-last page.</p> <p>10 A I do.</p> <p>11 Q Do you know whether you spoke to Mr. Dlin when  12 you called and left your message?</p> <p>13 A I have no idea who I spoke to at that time.</p> <p>14 Q So seeing his name there doesn't ring a bell?</p> <p>15 A I know it was a woman. My recollection is that  16 it was a woman. Let me rephrase that.</p> <p>17 Q But you don't remember her name?</p> <p>18 A That's correct.</p> <p>19 Q By the time you made the call to Antarctic  20 Press to make sure that they were informed, had you  21 already been receiving death threats, or did those come  22 in the wake of your conversation with Mr. Dunn and the  23 cancellation?</p> <p>24 A Specific to this incident in the wake of,  25 although death threats are a part of -- sadly a part of</p>
	Page 70	Page 72
03:08	<p>1 Is -- is that right?</p> <p>2 MR. BYRNE: Um...</p> <p>3 MR. PIERCE: I mean, I think we're just getting too  4 far afield here.</p> <p>5 MR. BYRNE: All right. We'll save that for the  6 merits.</p> <p>7 MR. PIERCE: What exhibit number are we on?</p> <p>8 THE REPORTER: 4.</p> <p>9 MR. PIERCE: Thank you.</p> <p>10 MR. BYRNE: No, we're on 5.</p> <p>11 THE REPORTER: You want to keep that as 4?</p> <p>12 MR. BYRNE: Yep.</p> <p>13 THE REPORTER: Can I remark that, please?</p> <p>14 THE WITNESS: Oh, sure. Of course.</p> <p>15 (Plaintiff's Exhibit 5 was marked for  16 identification by the court reporter and was  17 attached hereto.)</p> <p>18 MR. BYRNE: Sorry. I wasn't real clear.</p> <p>19 BY MR. BYRNE:</p> <p>20 Q Mr. Waid, I'm going to hand you what's been  21 marked as Exhibit 5.</p> <p>22 A Uh-huh.</p> <p>23 Q And represent to you that that is a printout  24 from the Internet of the Antarctic Press web page as it  25 appeared in May of 2017, and just ask you to glance over</p>	<p>03:11</p> <p>1 being a public figure, I've gotten many of them in the  2 past.</p> <p>3 Q Do you remember talking about death threats in  4 your conversation with Mr. Dunn?</p> <p>5 A I have no recollection of that, no, sir.</p> <p>6 Q It could have come up, you just don't remember?</p> <p>7 A I don't remember.</p> <p>8 Q And I take it you don't deny that the phone  9 call you had with Mr. Dunn on the afternoon of May 11th,  10 2018 might have lasted as long as 27 minutes?</p> <p>11 MR. PIERCE: Object to form.</p> <p>12 THE WITNESS: It might have.</p> <p>13 (Plaintiff's Exhibit 6 was marked for  14 identification by the court reporter and was  15 attached hereto.)</p> <p>16 THE WITNESS: Thank you.</p> <p>17 BY MR. BYRNE:</p> <p>18 Q And I'm handing you what's marked as Exhibit 6.  19 Is this a correct copy of a Facebook post that you posted  20 on the afternoon of May 11th, 2018 while you were waiting  21 for Mr. Dunn to return the message you left?</p> <p>22 A Yes, sir, that's accurate.</p> <p>23 (Plaintiff's Exhibit 7 was marked for  24 identification by the court reporter and was  25 attached hereto.)</p>

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03:14	<p>1 THE WITNESS: Thank you.</p> <p>2 BY MR. BYRNE:</p> <p>3 Q I'm handing you what's been marked as Exhibit 7</p> <p>4 to your deposition, Mr. Waid, and ask you to confirm that</p> <p>5 this is a series of text messages exchanged between you</p> <p>6 and Mr. Dunn beginning on Friday, May 11th at 5:51 p.m.</p> <p>7 and continuing several days thereafter.</p> <p>8 (Whereupon, the witness reviews he</p> <p>9 exhibit.)</p>	<p>03:21 1 Facebook page; is that right?</p> <p>2 A I -- yes, I didn't close the account but I took</p> <p>3 down the Facebook page, yes.</p> <p>4 Q And did -- did anyone advise you to do that, or</p> <p>5 is that something you decided to do independently of</p> <p>6 third-party suggestions or --</p> <p>7 A Totally on my own.</p> <p>8 I stepped on you again. I'm sorry.</p> <p>9 Q And is that because of negative feedback you</p>
03:14		<p>were getting from supporters of the Antarctic Press</p> <p>11 publication of "Jawbreakers" that were unhappy with your</p> <p>12 role in that not happening?</p> <p>13 MR. PIERCE: Object to form.</p> <p>14 THE WITNESS: Because of the incessant, yes.</p>
03:15	<p>10 THE WITNESS: That's accurate, yes, sir.</p> <p>11 BY MR. BYRNE:</p> <p>12 Q Okay. 'Cause the last series of texts looks --</p> <p>13 looks like it's dated Tuesday, May 15th.</p> <p>14 Is that your interpretation as well?</p>	<p>03:21 10 were getting from supporters of the Antarctic Press</p> <p>11 publication of "Jawbreakers" that were unhappy with your</p> <p>12 role in that not happening?</p> <p>13 MR. PIERCE: Object to form.</p> <p>14 THE WITNESS: Because of the incessant, yes.</p>
03:15	<p>15 A I'm not sure where you're seeing a date on the</p> <p>16 last round of -- or I mean last --</p> <p>17 Q Well, if you go to page 2, you see Saturday</p> <p>18 May 12th.</p> <p>19 A Right.</p>	<p>03:22 15 BY MR. BYRNE:</p> <p>16 Q Have you spoken to Mr. Ben Dunn or Mr. Joe Dunn</p> <p>17 since May 11th of 2018?</p> <p>18 A You mean other than texts?</p> <p>19 Q Right.</p>
03:15	<p>20 MR. PIERCE: There's a Bates number at the bottom.</p> <p>21 BY MR. BYRNE:</p> <p>22 Q You go to page 4 which is Bates numbered</p> <p>23 Defendants '9. There's a May 15th.</p> <p>24 And that's the last date change I see in this</p>	<p>03:22 20 A I have not.</p> <p>21 Q Okay. Are there any texts with either of the</p> <p>22 Dunns besides those that we've just reviewed that are</p> <p>23 marked in evidence?</p> <p>24 A Not to the best of my recollection. I -- if</p>
03:16	25 string.	03:23 25 they're -- because of the way these are cropped on the
	Page 74	Page 76
03:16	<p>1 Am I missing something or did this all happen</p> <p>2 on Tuesday -- all the entries after that day happen on</p> <p>3 Tuesday, May 15th as you interpret this?</p> <p>4 A Well, my recollection is there was a gap</p>	<p>03:23 1 screen caps, as I already indicated, there's one balloon</p> <p>2 that was, you know, cut off -- you know, "I'm happy to</p> <p>3 leave you" -- so I also submitted these exact same texts.</p> <p>4 The cutoffs may be different in mine.</p>
03:16	<p>5 between "I'm happy to leave" -- as you see, it says, "I'm</p> <p>6 happy to leave you" -- and it's cut off.</p> <p>7 And then the next one starts up with, "What</p> <p>8 have I done to offend you?"</p> <p>9 My recollection is there was a gap there.</p>	<p>03:23 5 So if that makes any sense. So between the two</p> <p>6 of them --</p> <p>7 Q Okay.</p> <p>8 A -- that would be an accurate record of what's</p> <p>9 there, yeah.</p>
03:16	<p>10 Q Okay.</p> <p>11 A It was a separate conversation.</p> <p>12 Q A day or two later?</p> <p>13 A A day or two later.</p> <p>14 Q Okay.</p>	<p>03:23 10 Q But nothing else substantive that you can</p> <p>11 recall?</p> <p>12 A That's correct.</p> <p>13 Q Besides what we have here, correct?</p> <p>14 A That's correct.</p>
03:17	<p>15 THE WITNESS: All right. Can we take a bathroom</p> <p>16 break real quick?</p> <p>17 MR. BYRNE: Sure.</p> <p>18 THE VIDEOGRAPHER: We are off the record at 3:17.</p> <p>19 This is the end of Media No. 1.</p>	<p>03:23 15 Q Have you been back to Texas since you were in</p> <p>16 Houston for the May of 2018 event?</p> <p>17 A No, sir.</p> <p>18 MR. BYRNE: All right. We'll reserve the rest of</p> <p>19 our questions for a later stage of the proceedings.</p>
03:21	<p>20 (Recess taken.)</p> <p>21 THE VIDEOGRAPHER: We are back on the record on</p> <p>22 Media No. 1 at 3:21.</p> <p>23 BY MR. BYRNE:</p> <p>24 Q Shortly after your call with Mr. Dunn on</p>	<p>03:24 20 MR. PIERCE: Could we just take a quick break?</p> <p>21 MR. BYRNE: Sure.</p> <p>22 THE VIDEOGRAPHER: We are off the record at 3:24.</p> <p>23 (Recess taken.)</p> <p>24 THE VIDEOGRAPHER: We're back on the record at 3:27.</p>
03:21	25 May 11th, within days at least, you took down your	03:27 25 Media No. 1.

**Comicpalooza, May 25-27, 2018, Houston, Texas**

**Panel question by audience member and answer by Mark Waid**

Audience Member: "I just want to get your quick opinion about small comic book creators like this guy we been hearing about on Twitter ...Diversity & Comics... big-time comic creators like yourself...Marvel...he seems obsessed with ... breaking into the scene, ... I'm trying to figure out, you know what's your opinion obsession..."

Mark Waid: "That's...It's tough to answer, because I'm trying to...you don't want to give oxygen too much to toxic, toxic people. But what he's basically talking about there is, there are....just as there are in pop-I mean right in the world right now, not just in comic books but in the world you got... heavily you know male heavy ...um movements of guys who are trying to move things back towards white supremacy, or back towards a world in which women knew their place, uh... that kind of nonsense, um and they're the proud boys or they're you know they're this group or they're that group.

And comics has you know a group or two like that too, comics fans have a group like that or two too and it's a shame, um... trying to say without inflaming anything.

Recently um one of them, one of these groups kickstarted a comic and great, awesome they're gonna do their own graphic novel cause they're super conservative, hyper conservative guys and the myth was, the rap was that comics was not interested in creating conservative creators or

we're not, we're throwing conservative creators out. That's not the case at all, it's a lot of conservative creators in comics, we don't, we're throwing assholes out, that what we're doing for every, for every conservative asshole we don't work with in comics, there's ten liberal assholes who we don't work within comics, so if that's not, there's no, there's no political yardstick here.

Uh these guys created the, you know, they did their comic, great, awesome. Then they started doing things like um...making a list of the stor-, there was, there was a bunch of the stores that decided they weren't going to carry the comic, so these guys made a list of those stores ...and their phone numbers and the names, first and last, of all their employees. And with the idea that "Oh no, don't call them and harass them, we're not telling you to do that at all!" But here's their phone numbers and their first and last names of all their employees. Well c'mon.

So, there was a publisher here in Texas who was going to publish their comic, for, after it had been kickstarted they were gonna, like publish it for comic stores and ...there was a huge amount of hatred toward that publisher at this moment. There was a, most people in comics, most fans of comics were looking at this as "How? What are you doing? These guys are, these are indefensible human beings." Uh they are, they, they harass women, they harass minorities, they harass LGBTQ people, um, they're full of hate, what are you doing?"

And my feeling is, look let the baby have his bottle, let, I don't care who publishes the comic. I don't care whether you publish this comic or not. I don't care. But I knew the publisher and I don't think he was aware of why all of a sudden there was this *gigantic* groundswell of hate towards him. So I said before *we burn his place to the ground*, let me call him and just find out what's going on, whether he understands really what's being- if he wants to publish it that's great I don't care but I just, I know the guy and want to make sure he *knows why the Hordes of Hell* are descending upon him right now. That's seems reasonable, right?

Anyway, so, the long story short, I did call the publisher and said "Look, you do what you want and I'm not, im-, I'm not asking you to not publish it, I'm not even saying, I'm not saying anything, I'm just kinda curious what you're thinking." And the answer was, "Oh my God, we had no idea, like we really didn't vet this before we decided to publish it." And so they made an announcement that they weren't gonna publish it.

Uhhh that's their choice, I wasn't... I, you know I, I didn't, I wasn't intimidating them, I wasn't pushing them into doing one thing or another, I just wanted to, to look out for him and make sure he understood why people were angry at him. Um, and so that's turned into what, me getting death threats every, you know 5,6 hours for a while, ummm...

Cause I'm clearly hate, you know, I clearly hate conservatives. Because I didn't, I said, all right clearly I'm bullying comic- I'm apparently I'm bullying publishers, I'm calling publishers and bullying them into not publi-, if I could, if I could bully publishers I'd be rich. If I could bully publishers I'd be writing Superman *tomorrow*, I could- there'd be so many things I would be doing if I were really- if I had a power to make publishers do what I wanted them to do.

Um does that *kinda* answer your question? It's... kinda?

It's uh, ...people can you know feel how they wanna feel, uh uh yeah. You are, you aren't, you aren't with them are ya? (audience laughter) Okay. I didn't, I didn't drive you guys out, did I?... One more question."



Mark Waid



...

19 mins •

I have a call in to Antarctic Press. Until I hear back, I'm (hesitantly) willing to give them the benefit of the doubt that they don't really understand who or what they're getting into business with, which--though it would seem a stretch--is a possibility. If I do hear back, I'll report in. Curious as to how they feel about publishing creators whose marketing strategy is to allegedly (\*koff\*) encourage their fans to threaten the employees of stores, and/or harass and one-star-review-bomb stores, that don't order their product.

Are we as creators responsible for the actions of our fans? Ultimately, of course not. But it is morally bankrupt f... Continue Reading

6

stretch-is a possibility. If I do hear back, I'll report in. Curious as to how they feel about publishing creators whose marketing strategy is to allegedly (\*koff\*) encourage their fans to threaten the employees of stores, and/or harass and one-star-review-bomb stores, that don't order their product.

Are we as creators responsible for the actions of our fans? Ultimately, of course not. But it is morally bankrupt for creators with a voice to pretend they have zero influence over their fans, and it is incumbent upon them as human beings in a society to use that influence to intervene if and when people are getting harassed or threatened in their name. You can bet your ass that if I ever found out any of my fans were spreading misogyny, transphobia, racism, or bigotry as a way of "supporting" my work, I would take active steps to shut that shit down in a cocaine heartbeat, not just shrug my shoulders.

AT&T

10:27 AM

100%



Ben

iMessage  
Fri, May 11, 5:51 PM

Thank for talking to me this afternoon...I have decided to drop the project...statement on Facebook coming soon

You are a VERY good man. Text or DM me when the statement goes up and I'll recirculate it if you like.

It's posted

Good man. Thank you, and stay in touch

Do you want me to repost it, or will that create more headaches for you?

I am not sure how to approach it...I'm prepared for the lashina

7



iMessage



AT&T

10:27 AM

\* 100%



Ben

I am not sure how to approach it...I'm prepared for the lashing I'm about to get from the other direction

Why don't I give it a day? That way, it looks less like I'm just trying to take a victory lap.

And sleep on it a couple of nights, but my offer to do an interview is still good.

Sounds good...I appreciate your support

Of course. Be well.

Sat, May 12, 1:58 PM

Just checking in to see how you're holding up.



iMessage



AT&T

10:27 AM

100%



Ben

I went to a small show to get away...I have not gone to FaceBook or checked my email since yesterday so that reduces my stress

Thanks for asking

I wrote a 4 page indictment of the industry last night...I think u will enjoy it when I finish

I had to close my FB account after all the non-stop death threats. Would LOVE to read your manifesto.

No problem...also will u be in temple Memorial Day weekend

That Houston show? Yeah

My wife's family reunion is in



iMessage



AT&T

10:27 AM

\* 100%



BD



Ben

My wife's family reunion is in  
temple Memorial Day weekend

Tue, May 15, 4:04 PM

Holding up? Why in the world is  
Meyer claiming that you called  
him in tears? Hope you're well.

I am not commenting anymore

I don't blame you. You haven't  
turned on me, I hope?

I said that tongue in cheek, but  
the lack of a reply has me  
nervous. When can we talk?

I do apologize...but essentially I  
am trying to put this behind me  
and as not to say or do  
anything that can be  
misinterpreted or



iMessage



AT&T

10:27 AM

\* 100%

BD

i

Ben

I do apologize...but essentially I am trying to put this behind me and as not to say or do anything that can be misinterpreted or misunderstood I have instructed everyone including myself not to comment on the situation

Well, I understand that, and you know that I'm here to help. You're not even getting any blame any more—the story is that you called in tears to confess and that I bullied you. I think that's 100% fiction—You said at the time you didn't feel I was bullying or harassing you in the least, correct?

Ben?



iMessage



AT&T

10:27 AM

\* 100%



BD



Ben

Left you a VM. Not asking for anything but confirmation that you and I are good with one another still—or if not, what can I do?

I'm sorry but this is not Ben..I'm his brother and publisher of Antarctic Press. Again I'm sorry but I've avoided being online and taking calls at all for the past 5 days to avoid all this. This has taken both a mental and physical toll on me and my family. I do not want to say or do anything at this time. I hope you can please respect that.

So long as you let me know that we're good, because now I'm concerned. If you can just do that, I'm happy to leave you



iMessage



AT&T

10:28 AM

\* 100%



BD



Ben

What have I done to offend  
you?

I do not want to be misconstrued...I do not want to have to use disclaimer words...I do not want any words I use for public consumption...i do not want any misinterpretation... personally I can say we're good in the sense that I'm not angry at anyone but myself..I blame me myself and I for everything and I'm living with that now and I now I have to live with myself that I facilitated more rhetoric. Nobody has offended me I offended myself.

You said I didn't bully you. Do you still feel that way? It weighs on me.

Ben, that is all I will ever ask of



iMessage



AT&T

10:28 AM

\* 100%



BD

i

Ben

Ben, that is all I will ever ask of you, and it stays between us. Do you now think that I bullied you?

I made my decisions based on a variety of many many many factors to protect me but mostly to protect my family and employees...I ultimately made the decision...it was 100% my decision...I will accept the total consequence of that decision.

No, the consequence is now on me, not you. I wish you'd been honest with me on Friday. All of this, all of it, was an effort to help you. Will you at least give me that?

Because everything you are saying to me indicates that you



iMessage



AT&T

10:28 AM

\* 100%



BD



Ben

help you. Will you at least give me that?

Because everything you are saying to me indicates that you weren't straight with me when you confirmed you didn't feel bullied by me at all and that we were good.

Are you changing your story to say that I bullied you, or were you straight with me on Friday? That's all I need to know, then I'll leave you alone.

I'll lose your number, you never need to hear from me again.

Just tell me I didn't intentionally bully you or hurt you, because if I did, I need to know.

Delivered



iMessage



